

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ORIGINAL JH

VICENTE AND CINDY ARRIAGA
Plaintiffs

V.

**WELLS FARGO BANK, NA dba WELLS
FARGO HOME MORTGAGE; MORTGAGE
ELECTRONIC REGISTRATIONS SYSTEMS,
INC (MERS); DRAPER & KRAMER MORT.
CORP; FIRST SECURITY NATIONAL aka
POSITIVE MORTGAGE; E*TRADE
BANK; NOTE HOLDERS; ALL NON-RECORD
OWNERS AND CLAIMANTS; UNKNOWN
PERSONS CLAIMING AN INTEREST
Defendants**

NOV -9 PM 4:30
U.S. DISTRICT COURT
No. 09 C 2115
Judge Norgle

09 cv 2115

FILED

NOV 09 2011 YM
NOV. 9, 2011
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

PLAINTIFFS' SUPPLEMENT TO RULE 26(a) DISCLOSURES

Please find below additional disclosures by Plaintiffs Vicente and Cindy Arriaga under Rule 26:

I. Individuals likely to have discoverable information that may be used to support joint Defendants Vicente and Cindy Arriaga's claims:

B. Individuals and Entities Associated With Defendants

1. Draper and Kramer, Inc. of Chicago, Illinois.

Under belief, Draper and Kramer, Inc is a sister corporation of Defendant Draper & Kramer Mortgage Corp.

Information Includes: knowledge of the reasons behind its furnishing of information in its name regarding the Draper & Kramer Mortgage Corp. loan to credit reporting agencies for inclusion into Defendants' consumer credit files.

2. Unknown Party employee(s)/accountant(s) at Wells Fargo Home Mortgage division of Wells Fargo Bank, NA, Des Moines, Iowa.

Information Includes: knowledge of dual accounting which includes a settlement payment made to the subject Wells Fargo Home Mortgage account in the amount of \$349,529.95 on June 22, 2010; knowledge of the identity of the Unknown Payer of that amount.

3. Maria Serwy, notary public and Plaintiffs' escrow agent at Stewart Title in Park Ridge, Illinois.

Information Includes: knowledge of the identities of Parties to Plaintiffs' refinance transaction - including Parties who were never disclosed to Plaintiffs at execution (ie, the true identity of the the Bank which funded Plaintiffs' refinance; true identity of the Unknown Party who was covered by the Lender's

Title Policy for which Plaintiffs paid; the identity of the Unknown Party to last possess the original Draper Mortgage document before its' recording; knowledge of the status of the escrow account which was opened by Stewart Title in the name of Cindy Arriaga; knowledge of loan documents faxed to Stewart Title from First Security National on the morning of 7/18/2005.

4. Jill D. Rein, managing attorney at Pierce & Associates law firm, Chicago, Illinois.

Information Includes: information regarding her sworn and recorded affidavit of the alleged MERS' transfer and assignment of originals of the Draper Note and Mortgage instruments to the physical ownership of her firm's client Wells Fargo; information regarding whether MERS possessed a right to be repaid at any time or ever possessed real-party legal interest in Plaintiffs' refinance transaction.

II. CATEGORIES AND LOCATIONS OF DOCUMENTS

1. Written (improper) responses to Plaintiffs' QWR's by Wells Fargo Home Mortgage division of Wells Fargo Bank, NA, in Plaintiffs' possession.
2. Copies of QWR's which were sent to Wells Fargo Home Mortgage division of Wells Fargo Bank, NA, in Plaintiffs' possession.
3. Request letter to Draper & Kramer, Inc regarding apparent interest in Plaintiffs' property, and response by its' Attorney, in Plaintiffs' possession.
4. Request letter to Stewart Title for disclosure of agency information and redisclosure of Draper/Arriaga loan file, and response by its Attorney, in Plaintiffs' possession.
5. Request letters to Fannie Mae and HUD regarding Draper and Kramer Mortgage Corp. refinance, awaiting responses, copies in Plaintiffs' possession.
6. All documents which Plaintiffs have filed as Exhibits to thier Original Complaint on 4/6/2009 (Doc. # 1-1 Attachment), page ID 104), also in Plaintiffs' possession.
7. Plaintiffs joint Affidavit and accompanying Exhibits filed in this Case on 1/13/2010 (Doc. #87), also in Plaintiffs' possession.
8. Demand letters from debt buyers National Collection Bureau and NCO Financial, purporting to collect liquidated debt amounts on behalf of an affiliate of E*Trade Bank. In Plaintiffs' possession.
9. Our letters requesting validation information from the above debt buyers (we are awaiting responses), in Plaintiffs' possession.

III. COMPUTATION OF DAMAGES

The Plaintiffs have suffered further damages as follows:

- Continued inability of Plaintiffs to obtain low-cost credit and loans for needed for personal, family, and household including for necessary property maintenance and repairs, and arising health issues.
- Continued consumer credit score damage which keeps interest rates high, and current creditor payments tough to make over the minimum monthly payment amount, causing the cost of credit to be high and forcing the Arriaga's to use future assets to make ends meet while they are unable

to build a nest egg.

- Complete loss on July 26, 2009 of pending Military Reserves Contract, including all expected educational, employment, bonuses, preferential interest rates, and programs; benefits which were to benefit the Arriaga family for years to come. Upon Wells Fargo's filing of its Cook County Foreclosure Complaint the Contract went into holding status, as Mrs. Arriaga was not allowed to execute final papers while the foreclosure Complaint was pending, and an actual foreclosure would have foreclosed the opportunity, as well.
- Family unity instability and upset; anguish, depression, physical exhaustion.
- Plaintiffs are inexperienced with settlement procedures and are unable to put a dollar amount on these damages, however, we believe that a fair settlement would be for Plaintiffs to keep the subject real property in order to sell it or rent it out to offset economic losses, a reparation of our credit profiles, and compensatory monies in the amount of \$150,000, with a release from all Defendants (including Unknowns), of any and all claims of any kind as against Plaintiffs and Plaintiffs' real and personal property; and Plaintiffs will also release Defendants. Alternatively, Plaintiffs may cede the subject real property, without credit damage, and Defendants may cause the reparation of Plaintiffs' credit profiles, grant Plaintiffs compensation in the dollar amount of \$500,000, with a release from all Defendants (including Unknowns), of any and all claims of any kind as against Plaintiffs and Plaintiffs' real and personal property; and Plaintiffs will also release Defendants.
- We are hoping that the Defendants will work with us to reverse the damages unfairly caused to us and allow us to get along with our lives, working amongst themselves to determine how to implement a settlement procedure which is fair and just. If Defendants have a fair and just counteroffer in mind, Plaintiffs are willing to hear about it.

IV. INSURANCE

Under belief, Defendants Draper & Kramer Mortgage Corp., Wells Fargo Bank, NA, Etrade Bank, and the Unknown Note Holder(s) have been reimbursed for the subject Mortgages and also possess business insurance or third-party guaranty agreements which, as of yet, have not been disclosed under FRCP Rule 26 or Rule 7 in this case. Plaintiffs, at this time, is not aware of the identities of the Unknown Persons carrying on an insurance business who may be liable to satisfy all or part of a judgment which may be entered in favor of Plaintiff. Plaintiffs themselves possess no such insurance.

Dated November 9, 2011 By: 

Cindy Arriaga, one of the joint Plaintiffs

Vicente and Cindy Arriaga

2841 N. Springfield

Chicago, IL 60618

(773)489-1547

PRO SE

our copy.

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VICENTE AND CINDY ARRIAGA
Plaintiffs

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RECEIVED

OCT 27 2009
OCT. 27, 2009
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

SERVICE OF PLAINTIFFS' RULE 26(a) DISCLOSURES

Rule 26(f) conference was held on September 10, 2009, at Attorney J. Lydon's office. In attendance were Attorney J. Lydon for Defendant Draper & Kramer Mortgage Corp, and Plaintiff Cindy Arriaga for the joint Plaintiffs. Attorneys for Defendants E*Trade Bank, Wells Fargo Bank, NA/Wells Fargo Home Mortgage, and MERS did not attend. Attorney J. Lydon and Cindy Arriaga discussed preliminary dates to end Discovery by December 16, 2009, and to file Dispositive Motion by January 15, 2010. The Plaintiffs assume that these dates are dependent upon the cooperation of all parties.

We are pro se and upon inquiry we were instructed not to file the disclosures but to simply serve them upon the Defendants. We were not aware, nor had it been mentioned during our inquiry, that Certificate of Service must be filed for the disclosures, and we do so today.

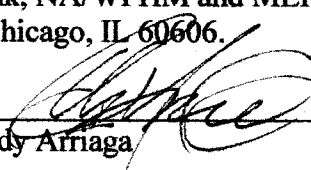
Respectfully,

Vicente & Cindy Arriaga
2841 N. Springfield
Chicago, IL 60618
Phone: (773) 489-1547

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Plaintiffs' Rule 26(a) Disclosures was served on October 16, 2009 before 5pm by U.S. Certified Mail, postage prepaid, upon the following:

- 1) John J. Lydon, et al (attorneys for Defendant Draper & Kramer), Gomberg, Sharfman, Gold & Ostler, P.C., 208 S. Lasalle St, Ste 1410, Chicago, IL 60604;
- 2) Johnathan N. Ledsky, et al (attorneys for Defendant E*Trade Bank), Varga Berger Ledsky Hayes & Casey, 224 S. Michigan Ave, Ste 350, Chicago, IL 60604; and
- 3) Robert J. Emanuel, et al (attorney for Wells Fargo Bank, NA/WFHM and MERS), Deutsch, Levy & Engel, Chartered, 225 W. Washington St. Ste. 1700, Chicago, IL 60606.


Cindy Arriaga

1. Complete item 2.
2. Print your name and address on the reverse so that we can return the card to you.
3. Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Number

7111 9496 6850 1304 2661

2. Article Addressed to

Attorney Robert J. Emanuel et al
(Attorneys for Wells Fargo (MERS))
Deutsch, Levy & Engel, Chartered
225 W. Washington St Ste 1700
Chicago IL 60606

3. Service Type

CERTIFIED MAIL

4. Restricted Delivery? (Extra fee)

A. Received by (Printed name)

B. Date of Delivery

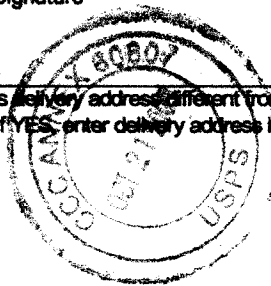
Dirk Nishikayashi

C. Signature

☐ Agent☐ Addressee

D. Is delivery address different from item 2?

If YES, enter delivery address below

☐ Yes☐ No

PS Form 3811V, March 2005 (PSN: 7530-07-000-0300)

Domestic Return Receipt

Sender, Complete this section:

1. Complete item 2.
2. Print your name and address on the reverse so that we can return the card to you.
3. Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Number

7111 9496 6850 1304 2685

2. Article Addressed to

Attorney Jonathan N. Ledsky et al
(Attorneys for Etrade Bank)
Varga, Berger, Ledsky, Hayer & Busby
224 S. Michigan Ave. Ste 350
Chicago, IL 60604

3. Service Type

CERTIFIED MAIL

4. Restricted Delivery? (Extra fee)

Complete this section upon Delivery:

A. Received by (Printed name)

B. Date of Delivery

10/19/09

C. Signature

☐ Agent☐ Addressee

D. Is delivery address different from item 2?

If YES, enter delivery address below

☐ Yes☐ No

2

PS Form 3811V, March 2005 (PSN: 7530-07-000-0300)

Domestic Return Receipt

Sender, Complete this section:

1. Complete item 2.
2. Print your name and address on the reverse so that we can return the card to you.
3. Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Number

7111 9496 6850 1304 2678

2. Article Addressed to

Attorney John J. Lyden, et al
(Attorneys for Draper & Kramer)
Gonberg, Scharfran, Gold & Ostroff
208 S. LaSalle St. Ste 1410
Chicago, IL 60604

3. Service Type

CERTIFIED MAIL

4. Restricted Delivery? (Extra fee)

Complete this section upon Delivery:

A. Received by (Printed name)

B. Date of Delivery

R. Burt

C. Signature

☐ Agent☐ Addressee

D. Is delivery address different from item 2?

If YES, enter delivery address below

☐ Yes☐ No

3

PS Form 3811V, March 2005 (PSN: 7530-07-000-0300)

Domestic Return Receipt

UNITED STATES POSTAL SERVICE
CHICAGO IL 606

21 OCT 2009 PM 3 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

Sender: Please print your name, address, and ZIP + 4® in this box.

Vicente & Cindy Arriaga
2841 N Springfield
Chicago, IL 60618

217

Mot Amend - Rule 26(a) disc - opp. to wells/mers

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

Sender: Please print your name, address, and ZIP + 4® in this box.

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Motion to Amend - Rule 26(a) disc. - opposition to wells/mers

2

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

Sender: Please print your name, address, and ZIP + 4® in this box.

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Mot. Amend - Rule 26(a) disc - Oppos. to wells/mers 3

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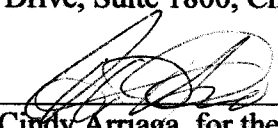
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**CERTIFICATE OF SERVICE OF PLAINTIFFS' SUPPLEMENT TO RULE 26(a)
DISCLOSURES**

Plaintiffs Certify that we have served Supplement to Rule 26(a) Disclosures to Defendants Draper & Kramer Mortgage Corp., Wells Fargo Bank/Wells Fargo Home Mortgage, Mortgage Electronic Registrations Systems, Inc., and E*Trade Bank on November 9, 2011. Copies of this Notice and Plaintiffs' Supplement to Rule 26(a) Disclosures were served by sending by U.S.P.S. Mail, postage prepaid, on November 9, 2011 before 5pm, to each the following Attorneys for the Defendants:

- 1) John J. Lydon, et al (attorneys for Defendant Draper & Kramer), Gomberg, Sharfman, Gold & Ostler, P.C., 208 S. LaSalle St, Ste 1410, Chicago, IL 60604;
- 2) Johnathan N. Ledsy, et al (attorneys for Defendant Etrade Bank), Varga Berger Ledsy Hayes & Casey, 125 S. Wacker Drive, Suite 2150, Chicago, IL 60606; and
- 3) Robert J. Emanuel, et al (attorneys for Wells Fargo Bank, NA/WFHM and MERS), Much, Shelist, Denenburg Ament & Rubenstein, PC 191 N Wacker Drive, Suite 1800, Chicago, IL 60606.


Cindy Arriaga, for the joint Plaintiffs

Vicente & Cindy Arriaga
2841 N. Springfield
Chicago, IL 60618

Phone: (773) 489-1547 (addtl attachments - copy of 10/27/2009 cert of service/return receipts)